

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Giansante	Team: Squad #8	CCRB Case #: 201704823	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/09/2017 6:58 PM	Location of Incident: Pennsylvania Avenue and Hegeman Avenue	Precinct: 75	18 Mo. SOL 12/9/2018	EO SOL 12/9/2018	
Date/Time CV Reported Wed, 06/14/2017 9:58 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 06/14/2017 9:58 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DTS Kaz Daughtry	3581	940052	PBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jan Rogowski	17628	955406	PBBN

Officer(s)	Allegation	Investigator Recommendation
A.DTS Kaz Daughtry	Force: Detective Kaz Daughtry struck § 87(2)(b) [REDACTED] with a vehicle.	[REDACTED]
B.DTS Kaz Daughtry	Abuse: Detective Kaz Daughtry threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]

Case Summary

On June 14, 2017, § 87(2)(b) filed the following complaint on the CCRB website.

On June 9, 2017, at approximately 6:58 p.m., § 87(2)(b) and his friend § 87(2)(b) were sitting astride their motorcycles at the intersection of Pennsylvania Avenue and Hegeman Avenue in Brooklyn. Detective Kaz Daughtry of Patrol Borough Brooklyn North drove up from behind the men and allegedly struck the front wheel of § 87(2)(b)'s motorcycle (**Allegation A: Force, § 87(2)(g)**). Det. Daughtry allegedly pointed a Taser at § 87(2)(b) and threatened to use it against him if he did not dismount his motorcycle (**Allegation B: Abuse of Authority, § 87(2)(g)**).

§ 87(2)(b) was transported to the 75th Precinct stationhouse and released with summonses for § 87(2)(b) (BR01).

Findings and Recommendations

- **Allegation (A) Force: Detective Kaz Daughtry struck § 87(2)(b) with a vehicle.**

§ 87(2)(b) described the incident in his written online complaint, in a phone statement, and during an in-person statement (BR02; BR03; BR04). On the date of the incident, § 87(2)(b) rode his motorcycle for hours with his friend § 87(2)(b). In the time immediately preceding the incident, a large group of motorcyclists overtook § 87(2)(b) and his friend. § 87(2)(b) recounted seeing the members of that group ride into the oncoming lanes of traffic and run red lights. § 87(2)(b) denied that he committed any VTL violations before the incident.

In his online complaint, he merely recounted that Det. Daughtry “hit” him with a vehicle. In his phone statement, § 87(2)(b) recounted that, after the larger group of motorcyclists passed him, he and § 87(2)(b) came to a stop at a red light at the intersection of Pennsylvania Avenue and Hegeman Avenue. § 87(2)(b) had his head turned to the right so he could speak to § 87(2)(b) when he suddenly felt a “push” against his motorcycle from the left. He turned to see that the unmarked vehicle was stopped perpendicular to him and directly in front him, such that the vehicle’s front bumper was resting against the front wheel of his motorcycle. § 87(2)(b) was not certain of the exact manner in which the vehicle made contact with his motorcycle, as he did not see the collision take place. § 87(2)(b) fled the scene on his motorcycle as soon as the officers arrived.

§ 87(2)(b) claimed that, once he was in custody at the 75th Precinct stationhouse, Det. Daughtry told him that he had actually been struck by one of the vehicle’s doors when the officers exited. § 87(2)(b) insisted in his phone statement that he was never struck by a vehicle door, but also recounted that during the incident he protested to Det. Daughtry that the door was a part of the vehicle and so that would still constitute him having been struck by the vehicle.

In his in-person statement, § 87(2)(b) specified that, at the time of the alleged collision, he was standing with his left foot on the ground and his right foot perched on the brake pedal. He described the force imparted to his motorcycle by the alleged collision as a “5” on a “1-10” scale. He was knocked off balance by the alleged collision and had to put his right foot on the ground to prevent himself and his motorcycle from falling over to the right.

As he had done during his phone statement, § 87(2)(b) recounted during his in-person statement that Det. Daughtry later claimed that another officer had merely struck him with a door of the vehicle. § 87(2)(b) now made confusing and conflicting statements regarding how exactly he was struck by the officers’ vehicle. When asked if Det. Daughtry told him which

specific door supposedly struck him, § 87(2)(b) declared, “It was the passenger door. The passenger door definitely hit me.” When asked to confirm that he was actually struck by a door of the vehicle, § 87(2)(b) replied, “I did get hit by the door. But the car initially hit me.”

The investigator asked § 87(2)(b) to explain how the vehicle door struck him, as he had never previously recounted being struck by a door. § 87(2)(b) explained, “The guy opened the door, but in the process of him opening the door—it wasn’t really more of a hit, it was more so as I was pushing the opposite way. Because, like I told you, when the car hit me, I had to catch my bike, so now I’m trying to stand the bike back up. The door’s open—as the door closed, I stood the bike straight up.” § 87(2)(b) went on to explain that he was leaning right and trying to lift his bike back toward the left, but he could not come to a fully straight standing position because of the open vehicle door on his left side. He now claimed that he never felt the door hit him, though he had only moments before asserted that the door “definitely” hit him.

§ 87(2)(b) denied that the alleged collision caused any physical damage to his motorcycle, but he did have to realign the front wheel with the front forks afterward.

§ 87(2)(b) refused to provide any additional contact information for his friend § 87(2)(b) so the investigation could not obtain a statement from him.

Det. Daughtry recounted following a “roving band” of at least 150 motorcyclists, and was certain that § 87(2)(b) and § 87(2)(b) were among the group (BR05). He saw § 87(2)(b) doing wheelies, running red lights, and crossing double-yellow lines to ride in oncoming traffic. In addition, the license plate on § 87(2)(b)’s motorcycle was bent so that its number could not be read. Det. Daughtry followed the group without activating his vehicle’s emergency lights. He hoped to issue summonses to any motorcyclist who could be stopped safely, and was not specifically intent upon stopping § 87(2)(b). He eventually decided to stop § 87(2)(b) and § 87(2)(b) after seeing them come to a stop at the intersection.

Det. Daughtry admitted that he quickly pulled his vehicle in front of § 87(2)(b)’s motorcycle to prevent § 87(2)(b) from fleeing the scene, and said that his vehicle was so close to the motorcycle’s front wheel that § 87(2)(b) would have had to back up in order to drive around the vehicle. Det. Daughtry denied that his vehicle made any physical contact with § 87(2)(b)’s motorcycle. Det. Daughtry presented a photograph he took with his NYPD cellphone during the incident, which shows the obstructed rear license plate of § 87(2)(b)’s motorcycle (BR06). Det. Daughtry noted that the photo showed the relative positions of the vehicle and the motorcycle at the time of the stop.

Det. Daughtry confirmed that § 87(2)(b) later claimed to him that the vehicle had struck the motorcycle and that he had “toppled over his bike or something like that.” Det. Daughtry denied both that § 87(2)(b) claimed he was struck by a door or that he ever told § 87(2)(b) that had taken place. He told § 87(2)(b) that he would notify a captain if he wanted to pursue the claim that the vehicle struck his motorcycle, and also told him he would file a CCRB complaint online, by phone, or by mail. § 87(2)(b) replied, “Just get me the fuck out of here,” and did not pursue the complaint further.

PO Rogowski was riding in the front passenger seat of the vehicle, and he also denied that the vehicle ever made contact with § 87(2)(b)’s motorcycle (BR07).

§ 87(2)(b) insisted that there were three officers total in Det. Daughtry’s vehicle. Det. Daughtry and PO Rogowski both maintained that there were no other officers with them at the time. PO Rogowski’s memo book shows that he and Det. Daughtry did not have any other partners at the time (BR08), and there is no other evidence to indicate that there was a third officer involved in the initial stop.

§ 87(2)(g)

§ 87(2)(g)

- **Allegation (B) Abuse of Authority: Detective Kaz Daughtry threatened § 87(2)(b) with the use of force.**

It is undisputed that § 87(2)(b) argued with the officers and refused to dismount his motorcycle or provide his license. It is also undisputed that Det. Daughtry drew his Taser at some point while ordering § 87(2)(b) to dismount.

§ 87(2)(b) alleged in all three of his statements to the CCRB that Det. Daughtry pointed a Taser at him and threatened to use it against him. In his phone statement, he specified that Det. Daughtry pointed the Taser at him soon after he exited the vehicle. § 87(2)(b) recounted that PO Rogowski and a supposed third officer grabbed his arms. § 87(2)(b) got into a “little tussle” with PO Rogowski as PO Rogowski attempted to take his motorcycle’s keys from the ignition, and Det. Daughtry threatened to shoot him with the Taser if he did not dismount. § 87(2)(b) eventually dismounted voluntarily.

In his in-person statement, § 87(2)(b) reiterated that Det. Daughtry pointed the Taser at him almost immediately after exiting the vehicle. § 87(2)(b) asked Det. Daughtry, “Why did you hit me?” Det. Daughtry told § 87(2)(b) to dismount and threatened to shoot him with the Taser if he did not comply. § 87(2)(b) repeated his account of PO Rogowski and another officer grabbing his arms, and claimed that he snatched his keys back from PO Rogowski and told him, “You’re not taking my keys.” During this time, Det. Daughtry walked around § 87(2)(b) in a broad circle while pointing the Taser at him, so that Det. Daughtry ended up standing behind him. § 87(2)(b) claimed that Det. Daughtry threatened to taser him if he did not dismount at least three times. § 87(2)(b) kept asking Det. Daughtry, “For what?” § 87(2)(b) estimated that approximately 2-3 minutes elapsed before he voluntarily dismounted. When asked why he refused Det. Daughtry’s orders to dismount, § 87(2)(b) said, “Cause I was never in the wrong for anything. There was no reason I was basically being harassed by the New York City Police Department.”

Det. Daughtry § 87(2)(g) denied that he drew his Taser immediately after stopping § 87(2)(b) and denied that he ever pointed the Taser at § 87(2)(b). He also did not recount specifically telling § 87(2)(b) that he would use the Taser against him if he did not comply. He recounted that § 87(2)(b) refused to dismount, refused to provide his license and other paperwork, and argued with the officers over the reason for the stop. The officers told him that he was required to produce his license, and § 87(2)(b) insisted that he would not comply. § 87(2)(b) also said that he was going to call his friend, who was a sergeant or lieutenant, and tell him that Det. Daughtry and PO Rogowski were harassing him. Det. Daughtry estimated that he and PO Rogowski argued with § 87(2)(b) for approximately 10-15 minutes, during which time § 87(2)(b) remained standing astride his motorcycle.

Upon being told that he would be arrested if he did not dismount and produce his license, § 87(2)(b) continued to argue that he could not be arrested. He refused to put his hands behind his back, and he became “aggressive” when he seemed to realize that the officers were going to take him into custody. At this point, § 87(2)(b) put his hands back onto the handlebars and appeared to move as if he was going to back up in order to drive away. Either Det. Daughtry or PO Rogowski grabbed the handlebars, and Det. Daughtry told § 87(2)(b) he was under arrest. § 87(2)(b) removed his hands from the handlebars, “clenched his fists,” and “tensed up.”

Det. Daughtry told § 87(2)(b) “Please man, listen, don’t—this is not necessary for this type of offense. You’re just riding around with your friends. You’re having a good time. You got caught. Give it up already.” Det. Daughtry’s goal was “to obtain voluntary compliance without the use of force.” Finally Det. Daughtry drew his Taser, pointed it toward the ground with the laser activated, and told § 87(2)(b) “C’mon sir, it’s not worth it.” Det. Daughtry described this tactic as a “laser warning.” § 87(2)(b) finally dismounted and put his hands behind his back.

Det. Daughtry claimed that he would have been justified in using physical force to remove § 87(2)(b) from the motorcycle, and that he would have been justified in using the Taser against him if he continued to refuse to dismount.

PO Rogowski largely echoed Det. Daughtry’s description of the incident, though he estimated that § 87(2)(b) argued and refused to comply for about 3-5 minutes. He recalled § 87(2)(b) yelling, “Fuck you! What are you guys? This is bullshit. You guys can’t touch me. I don’t have to give you my license and registration.” He also recalled § 87(2)(b) clenching his fists out in front of himself and “tensing up,” and he thought § 87(2)(b) looked like he was ready to fight or to throw a punch. PO Rogowski also described Det. Daughtry’s use of his Taser as a “laser warning,” and recalled Det. Daughtry telling § 87(2)(b) “Be compliant. Get off the bike. Give us your documents. If you’re not compliant, we’ll have to taser you.”

Patrol Guide Procedure 221-08 states that a Taser should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present (BR09). The Patrol Guide defines “Active Resisting” as both making evasive physical movements to defeat an officer’s attempt at control and signaling verbally an intention to avoid or prevent being taken into custody. It is prohibited to use a Taser in situations that do not require the use of physical force. Officers are empowered to employ a “laser warning,” in which they point and place the laser dot of an activated Taser at an individual in order to attempt to achieve voluntary compliance. Officers are encouraged to issue a verbal warning in addition to the “laser warning.”

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has one previous CCRB complaint (BR10).
 - § 87(2)(b)
- Det. Kaz Daughtry has been a member of the NYPD for 11 years and has had 33 previous complaints involving 15 cases with two substantiated allegations (see officer history):
 - In case #200710793, the Board substantiated allegations of gun pointed and threat of force and recommended Charges. The NYPD imposed a penalty of the loss of ten vacation days.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined the option of mediation.
- On September 26, 2017, the NYC Comptroller's office confirmed that no Notice of Claim had been filed regarding this incident (BR11).
- § 87(2)(b), § 87(2)(c)

Squad No.: 8

Investigator:	<hr/>	<u>Inv. Daniel Giansante</u>	<hr/>
	Signature	Print Title & Name	Date

Squad Leader:	<hr/>	<hr/>	<hr/>
	Signature	Print Title & Name	Date

Reviewer:	<hr/>	<hr/>	<hr/>
	Signature	Print Title & Name	Date